

Appln. No.: 10/732,962  
Attrtry Dckt.: MIO0088V3/40509.280

### Remarks

By this response, claims 5-23 are cancelled, without prejudice, due to a restriction requirement. Claims 1 and 24 have been amended, and claims 27-36 are new. As support for the above amendments and new claims is provided for be the specification and drawings no new matter has been entered. Accordingly, claims 1-4, and 24-36 are pending in the present application.

In the Office Action, claims 1 and 24 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-6 of U.S. Patent No. 6,787,834 B2. In view of this rejection, Applicant has filed herewith a terminal disclaimer, thereby overcoming the double patenting rejection.

In the Office Action, claims 1-4, 24-26 as being anticipated under 35 U.S.C. 102(e) by Zheng (6,825,081 B1), and Doan (6,235,571 B1). In view of this rejection, claims 1 and 24 have been amended to recite limitations neither disclosed nor suggested by the cited art.

In particular, amended claim 1 now recites having the monolayer formed directly on the nitridation receptive material and the unmodified surface of said nitridation resistive material. Amended claim 24 now recites having the monolayer provided to the nitridation receptive material and the unmodified surface of the nitridation resistive material. Zheng teaches providing the dielectric layer 20' to the modified surface 34' of the nitridation resistive material 14'. See FIG. 2D, and col. 6, line 5- col. 7, line 5. Accordingly, in the Applicant believes that amended claims 1 and 24, and the claims that depend therefrom, are patentable over Zheng.

Doan is asserted against dependent claims 25 and 26. However, the Applicant notes that Doan's non-conductive nitride-nucleation enhancing layer is preferably a polysilicon layer. There is no mention in Doan of using a silicon dioxide monolayer and therefore, independent

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claim 24, which recites a silicon dioxide monolayer is not anticipated by Doan. As claim 24 is not anticipated by Doan, neither are depended claims 25 and 26. Accordingly, the Applicant believes that amended claims 1 and 24, and the claims that depend therefrom, are patentable over Doan.

As new claims 27-36 depend from amended claim 1 and further in view of the above comments, these claims are also believed patentable over the cited art.

Applicant respectfully submits that the application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

DINSMORE & SHOHL LLP

By 

William A. Jividen  
Registration No. 42,695

One Dayton Centre  
One South Main Street, Suite 1300  
Dayton, Ohio 45402-2023  
Telephone: (937) 449-6448  
Facsimile: (937) 223-0724  
e-mail: william.jividen@dinslaw.com  
WAJ/